HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.17370 OF 2007

Between:

The Alluru Mandal Committee of A.P. Rythu Sangham, represented by its President, Alluru Mandal, Nellore District. ...Petitioner

AND

The State of Andhra Pradesh, represented by its Principal Secretary, Rural Water Supply, Panchayat Raj Department, Secretariat, Hyderabad and others. ...Respondents

:: O R D E R ::

Counsel for the petitioner : Sri Prattipati Venkateswarlu

Counsel for respondent No.1 : Government Pleader for Panchayat Raj

Counsel for respondent Nos.2 to 4 : Government Pleader for Revenue

6th September, 2007

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Per G.S.SINGHVI, C.J.

In this petition filed by The Alluru Mandal Committee of A.P. Rythu Sangham on behalf of 164 persons, who are said to be occupying and cultivating 252 acres of land comprised in Survey No.4231 of Alluru Village and Mandal, Nellore District, prayer has been made for restraining the respondents from dispossessing them.

In the affidavit filed by Sri Kandala Sivarami Reddy, President of the petitioner committee, it has been averred that the persons whose names figure in the annexed list have been cultivating the subject land for last more than 40 years; that they had paid land revenue till the State Government granted exemption; that in the guise of constructing Summer Storage Tank at Alluru, the respondents are seeking to forcibly dispossess them; that they have challenged notices issued under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905, but the respondents are taking coercive measures for dispossessing them.

In the counter-affidavit filed by him, Iska Bhathavathsala Reddy, Tahsildar, Alluru Mandal has averred that the persons named in the list annexed with the writ petition are unauthorisedly occupying the land classified as 'tank poramboke'; that decision to construct Summer Storage Tank was taken to facilitate the availability of water; that the persons who were illegally occupying the land have been evicted and possession of the subject land was taken over on 8.8.2007. Sri Reddy has contested the petitioner's claim that the persons named in the annexed list are occupying the land for 40 years. In paragraphs 9 and

12 to 15 of the affidavit, he has averred as under:

9. In reply to averments made in para 3 it is submitted that the encroachment is there in the periphery of the land in survey number during last season. During good rainy season the water enters the patta lands also beyond a distance of 500 meters from the periphery of the land in survey number 4231/2 when the water is there in the tank up to Full Tank level. It is further submitted that the tank bed land is objectionable poramboke and as such the encroachers are liable to be summarily evicted.
10. … … …
11. … … …
12. The Government in G.O.Ms.No.85, Revenue (Assignment-II) Department, dated 25.1.2007 have issued orders for construction of summer storage tank to sole the drinking water problem of 13 Grama Panchayats including Allur major panchayat. There are 62 habitations in these 13 grama panchayats and the population covered by the scheme is 60000. The construction of summer storage tank only caters the drinking water to the thirsty people, but also reduces recurring expenditure to the Government as it does not require further transportation of water and peoples health is preserved and thereby their economic standards do improve.
13. The Comprehensive Protective Water Supply Scheme has been sanctioned with an estimate of Rs.5.00 crores vide G.O.Rt.No.1207, Panchayat Raj & Rural Development (RWS-II) Department, dated 2.7.2005. In order to ensure the availability of water during all seasons, the surface water is taken from Somasila Project through well knitted canal system already existing to Allur Tank and it is proposed to construct the summer storage tank covering an extent of Acs.100 in the tank bed area. It is to submit that there is no government land of Acs.100 for construction of the summer storage tank. Moreover, as surface water is drawn from the Somasila Project, the Ayacut under the tank is also not effected. Accordingly, the Government of Andhra Pradesh have issued orders vide G.O.Ms.No.85, Revenue Assignment-II Department, dt: 25.1.2007 permitted the District Collector, Nellore for transfer of Acs.100.00 of land in Sy.No.4231/2 of Allur Village.
14. The Superintending Engineer, Rural Water Supplies, Nellore has got surveyed the land in Sy.No.4231/2 and finally identified a peace of land of Acs.100.00 out of Acs.1959.64 in the survey number. The identification has been based upon the technical

feasibility for construction of the summer storage tank. The land identified to be suitable as per the technical survey by the R.W.S. authorities is the one encroached upon by the writ petitioners and not the other portion of the land under survey number towards the tank bund as contended by the writ petitioner. In fact, as submitted, the land in tank bed is choosen as there is no alternate Government land for allotment. It is desirable to allot the land towards periphery but in the center of the tank so that the water in the normal tank is not effected much.

15. In reply to para 6 of the writ affidavit it is submitted that the contention of the writ petitioner that the authorities are influenced by the political rivalry is absolutely false. It is further submitted that allowing encroachment in water sources even by people of weaker section is not at all desirable and it is also detrimental to the ecological balance and hazardous to the general health of the public. The respondents do not aware of the submission of the petitions to the Hon'ble Ministers and leaders in the Assembly as contended by the writ petitioner. It is further submitted that the writ petitioner stated in the affidavit that stay was not granted by the Revenue Divisional Officer, the 3rd respondent in the writ petition on the further proceedings consequent to the service of notices u/s.7 of the A.P. Land Encroachment Act. Hence, the Tahsildar, Allur has proceeded with process and finally passed orders u/s.6 of the A.P. Land Encroachment Act. However, the writ petitioners have to avail the statutory remedy of appeal u/s.10 of the Land Encroachment Act, before the Revenue Divisional Officer, against the orders passed by the Tahsildar, Allur. It is further submitted that the land in fact neither cultivation nor any structures or instruments are there in the land taken over possession. However, the writ petitioners and others have attempted to stop the work taken by the Rural Water Supplies authorities on 9.8.2007.

On 29-8-2007, Sri P. Venkateswarlu, learned counsel for the petitioner invited our attention to the report published in Vaartha Daily local edition dated 13-8-2007, wherein District Collector, Nellore is said to have assured the representatives of the displaced persons that they will be allotted alternative site in Survey No.461 of Thurupu Gogulapalli Village, Alluru Mandal and submitted that the petitioner

will feel satisfied if the displaced persons are re-settled at some other place. Upon this, the learned Government Pleaders for Revenue and Panchayat Raj were requested to get in touch with the concerned authorities and make a statement before the Court on the next date of hearing.

Today, the learned Government Pleader for Revenue produced before the Court letter dated 30-8-2007 sent to him by Collector and District Magistrate, Nellore, the penultimate paragraph of which reads as under:

> "In this regard, it is to state that the writ petitioners have approached the District Collector on 13-8-2007 and the District Collector, Nellore has informed them that if Government land is available, they will be considered for assignment on priority and strictly as per the eligibility and as per the relevant rules that govern assignment of Government land."

The contents of the above mentioned letter were read-over to the learned counsel for the petitioner, who submitted that his client will feel satisfied if the Court gives a time-bound direction for consideration of the applications which will be made by the displaced persons to the District Collector for allotment of alternative site.

Learned Government Pleader for Revenue responded to this submission of Sri P. Venkateswarlu by stating that applications made by the displaced persons will be dealt with and decided by the competent authority within a period of eight weeks and alternative sites will be allotted to them by way of assignment subject to availability of the land.

In view of the above, we do not consider it necessary to adjudicate on the petitioner's grievance in the matter of the alleged wrongful dispossession of 164 persons from the land comprised in Survey No.4231 of Alluru Village and Mandal, Nellore District and

dispose of the writ petition with the following directions:

i) Within two weeks from today, the persons who have been displaced for construction of Summer Storage Tank at Alluru Village may apply in the prescribed proforma for allotment of alternative sites either in Survey No.461 of Thurupu Gogulapalli Village or any other government land, which may be available in the district.

ii) Within next eight weeks, the District Collector or officer authorised by him shall process, deal with and decide the applications made by the displaced persons. If all or some of them are found eligible and entitled to allotment of government land by way of assignment and if sufficient land is available for the purpose of allotment to them, then the concerned officer shall issue necessary orders at the end of eight weeks period.

As a sequel to disposal of the writ petition in the manner indicated above, WPMP.No.22211 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, C.J.

6th September, 2007.

C.V.NAGARJUNA REDDY, J

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